

HARDY MYERS
Attorney General
AARON SPRAGUE #06228
Assistant Attorney General
ELIZABETH K. BONUCCI #06322
Assistant Attorney General
Department of Justice
1162 Court Street NE
Salem, OR 97301-4096
Telephone: (503) 947-4700
Fax: (503) 947-4791
Email: aaron.sprague@doj.state.or.us
elizabeth.bonucci@doj.state.or.us

Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JOSEPH DOWNEY WADE,

Plaintiff,

v.

STATE OF OREGON; UNIVERSITY OF
OREGON; and JOHN MOSELEY, in his
official and individual capacities,

Defendants.

Case No. 01-6178-HO

AFFIDAVIT OF PENELOPE DAUGHERTY

STATE OF OREGON)
) ss.
County of Lane)

I, Penelope Daugherty, being first duly sworn, depose and say:

1. I am Director of the University of Oregon's Office of Affirmative Action and
Equal Opportunity. I have held that position since January 2003.

2. It is my responsibility to ensure that hiring done by the University complies with University's the policies and procedures put in place to meet the University's affirmative action obligations.

3. I have personal knowledge of all the facts testified to herein.

4. In the course of my duties I have had personal involvement in the hiring/appointment processes that culminated in Dr. Robin Holmes being hired as the Vice President of Student Affairs and Dr. Charles Martinez being appointed as Vice Provost for Institutional Equity and Diversity.

5. The University's hiring procedures relative to affirmative action require that executive level jobs be filled through a competitive recruitment process. However, this process may be waived, and direct appointments to a position made, if a waiver is applied for and granted by the Director of Affirmative Action and Equal Opportunity.

6. In June 2005, I received and granted a request for a direct appointment waiver for the appointment of Michael Eyster as Interim Vice President of Student Affairs. Granting this waiver was based on the need to maintain stability in the office of the Vice President of Student Affairs while a search could be conduct for a person to fill that position permanently.

7. In June 2005, I received and granted a request for a direct appointment waiver for the appointment of Dr. Charles Martinez as Interim Vice Provost for Institutional Equity and Diversity. This interim appointment request came at a time when the University's efforts to promote diversity were at a critical juncture, as the University's Diversity Plan was being formulated. My decision to grant this waiver request was based on the need for solid leadership in the office of Institutional Equity and Diversity at this critical time.

8. I subsequently received a request for a direct appointment waiver for the appointment of Dr. Charles Martinez as Vice Provost for Institutional Equity and Diversity on a permanent basis.

9. I granted this waiver with the provision that, prior to the appointment, the University engaged in a public input process to ensure that the appointment had the backing of the campus community.

10. My decision to grant a waiver for the direct appointment of Dr. Martinez to be the Vice Provost for Institutional Equity and Diversity was based on the progress Dr. Martinez had made moving forward with the University's diversity plan.

11. At the time the waiver request was made, Dr. Martinez had spent the better part of a year working tirelessly to build a campus wide consensus regarding the Diversity Plan and moving forward with this critical element of the University's efforts to enhance the understanding and infrastructure necessary to build a more diverse campus. In this process he had succeeded in building effective relationships and goodwill with the various campus constituent groups. The University did not want to lose the momentum Dr. Martinez had built up in this area, nor did they want to lose the benefit of Dr. Martinez's experience and the goodwill he had fostered throughout campus.

12. It was my decision that challenges encountered in the original search and the critical need to sustain the constructive work that had begun under Dr. Martinez' leadership constituted unique and extraordinary circumstances which warranted a waiver of the normal recruitment procedures. I, therefore, granted the waiver subject to the conditions described above.

13. In my opinion, all of the appointments discussed above complied with the University of Oregon's affirmative action hiring policies.

FURTHER AFFIANT SAITH NOT

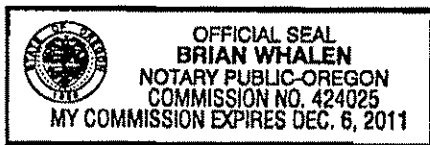
>

DATED this 4th day of August, 2008.

Penelope Daugherty
PENELOPE DAUGHERTY

STATE OF OREGON
COUNTY OF LANE

SUBSCRIBED AND SWORN to before me this 4 day of August, 2008, by Penelope Daugherty.



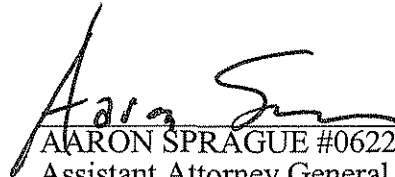
Brian Whalen
Notary Public for Oregon
My Commission Expires: 12/6/2011

CERTIFICATE OF SERVICE

I certify that on August 4, 2008, I served the foregoing AFFIDAVIT OF PENELOPE DAUGHERTY upon the parties hereto by the method indicated below, and addressed to the following:

Suzanne Bradley Chanti
Chanti & Middleton, P.C.
245 East 4th Avenue
Eugene, OR 97401 97405
Of Attorneys for Plaintiff

☐ HAND DELIVERY
☐ MAIL DELIVERY
☐ OVERNIGHT MAIL
☐ TELECOPY (FAX)
☐ E-MAIL schanti@chantilaw.com
☒ E-FILE


AARON SPRAGUE #06228
Assistant Attorney General
ELIZABETH K. BONUCCI #06322
Assistant Attorney General
Trial Attorneys
Of Attorneys for Defendants
1162 Court Street NE
Salem, OR 97301-4096
Telephone: (503) 947-4700